



BOULDER COUNTY BAR NEWSLETTER

SEPTEMBER 2013

APPEAL RIGHTS UNDER OBAMACARE: WHAT PRACTITIONERS NEED TO KNOW

BY GEORGE LYFORD

Among the sweeping reforms in the Patient Protection and Affordable Care Act (ACA) is the requirement that all states establish new insurance marketplaces – or exchanges – that enable Americans to shop for and obtain health insurance coverage.¹ On October 1, 2013, Connect for Health Colorado – Colorado’s marketplace – will open its doors for business.² An estimated 466,370 low- and middle-income Coloradans will be eligible for new tax credits available only through the marketplace to help them pay insurance premiums and cost-sharing requirements.³ Recently adopted federal regulations clarify that marketplace eligibility determinations must comply with the due process requirements expressed in *Goldberg v. Kelly*.⁴ This article outlines the different types of marketplace appeals practitioners may encounter and briefly examines the due process requirements these appeals must adhere to.

Insurance Marketplace Determinations

Marketplaces are designed as a place where individuals and small businesses can shop for coverage with the help of easily understood and easily compared information about their options. Marketplaces are also the only place where low- and middle-income individuals and families can apply for sliding scale tax credits to assist with insurance premiums and cost-sharing requirements.⁵ The tax credits, which will be available to individuals who earn up to 400 percent of the Federal Poverty Level (FPL),⁶ are meant to provide financial assistance to people who earn too much to qualify for Medicaid but too little to afford full price for commercial health insurance.⁷ The ACA requires that marketplaces interface with state Medicaid agencies to ensure people eligible for marketplace tax credits, Medicaid or the Child Health Plan Plus (CHP+) will have access to the appropriate cover-

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(see page 15)

age, regardless of where they begin their query.⁸

Federal law requires marketplaces to provide a formal eligibility appeals process for individuals, families and small businesses applying for coverage. Individual eligibility appeals may be conducted by the marketplace or delegated to the federal government and will likely fall into four categories:⁹

- Appeals of an initial determination of eligibility for tax credits and cost-sharing subsidies.¹⁰
- Appeals of a redetermination of eligi-

(continued on page 3)

CALENDAR OF EVENTS

Pre-registration is required for all BCBA CLE programs. Register by e-mailing sarah@boulder-bar.org, or pay online with a credit card at www.boulder-bar.org/calendar.

Wednesday, September 4
BOULDER IDC
Recent Landmark Cases Impacting Family Relationships
Presenter: Ronald Litvak, J.D.
11:30 a.m. @ Spice of Life Event Center
Cost: \$20 IDC Members, \$25 Non-Members

Tuesday, September 10
Avoiding Employee Misclassification
Presenter: Jill Zender
Noon @ Caplan & Earnest
\$20 CLE, \$10 for new/young lawyers
\$11 Lunch

Wednesday, September 11
CRIMINAL
New Procedures for the Bond Reform Process
Presenter: William "Woody" Wood,
Boulder County Probation
Noon @ Justice Center Training Room
\$20 CLE, \$10 for new/young lawyers

Wednesday, September 11
SOLO/SMALL FIRM
Happy Hour at 5:00 @ Conor O'Neill's

Friday, September 13
AVAILABILITY OF LEGAL SERVICES
Roundtable Brownbag, Noon at BCLS

Wednesday, September 18
CIVIL LITIGATION/BANKRUPTCY
Shifting Sands of Insolvency: Anticipating and Dealing with Bankruptcy Issues in Litigation
Presenter: Cynthia Kennedy
Noon @ Hutchinson Black & Cook
1 CLE \$20, \$10 for new/young lawyers
\$11 Lunch

Wednesday, September 18
FAMILY LAW: A View from the Bench
Presenters: Judge LaBuda, Judge Mulvahill & Magistrate Brodsky
Noon BrownBag in Courtroom Q
1 CLE \$20, \$10 for new/young lawyers

Thursday, September 19
BANKRUPTCY
Roundtable Luncheon, Noon @ Agave Bistro

Thursday, September 19
REAL ESTATE
Municipalization from Xcel Energy's Perspective
Presenters: Craig Eicher & Robert Bellemare
Noon @ The Boulder Cork
1 CLE \$20, \$10 new/young lawyers
\$16.50 Lunch

Thursday, September 19
PARALEGALS (FAMILY)
Colorado Address Confidentiality Program
Presenter: Jana Loveall, State of Colorado's
Address Confidentiality Program
Noon @ Bryan Cave ETHICS CLE
\$20 CLE, \$10 New/Young Lawyers
\$11 Lunch

Thursday, September 19
IN-HOUSE COUNSEL
Benchmarking Accounts Receivable: What you need to know about your accounts receivable as In-House Counsel
Presenter: Porter Heath Morgan,
General Counsel of BC Services
Noon @ Faegre Baker Daniels
1 CLE \$20, \$10 for new/ young lawyers
\$11 Lunch

Thursday, September 19
LOUISVILLE HAPPY HOUR
5:30 @ The Louisville Rex 817 Main St.

Tuesday, September 24
ELDER LAW
Recent Updates and Changes to Colorado Medicaid Laws
Presenter: John Campbell
Noon @ Caplan & Earnest
\$20 CLE, \$10 New/Young Lawyers
\$11 Lunch

Thursday, September 26
NATURAL RESOURCES/ENVIRONMENTAL LAW
Wetlands and Water Quality Update: Federal vs. Local Wetland Regulations
Presenters: Noah Greenberg, Wetland Scientist and Aquatic Resource Specialist; Wright Water Engineers, Inc.; Maki Iatridis, Partner, Berg Hill Greenleaf & Ruscitti
Noon @ Faegre Baker Daniels
1 CLE \$20, \$10 for new/young lawyers
\$11 Lunch

Friday, September 27
IMMIGRATION
Roundtable Discussion
8:30 a.m. @ Broadway Suites (1942 Broadway, 3rd Floor)

Friday, September 27
IN-HOUSE COUNSEL
Monthly Roundtable Discussion
Noon @ UCAR (3080 Center Green Dr. Room 3150)
Brownbag Lunch

September 19-20
"Excellence in Interdisciplinary Collaboration: Strengthening Your Collaborative Skills"
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APPEAL RIGHTS UNDER OBAMACARE *(continued from page 1)*

bility for tax credits and cost-sharing subsidies.¹¹

- Appeals of a failure by the marketplace to provide timely or adequate notice of an eligibility determination.¹²
- Appeals of an eligibility determination for an exemption from the individual mandate.¹³

Marketplace appeals are required to be coordinated with Medicaid appeals, because eligibility for tax credits and cost-sharing subsidies in the marketplace is dependent on receiving a formal denial for Medicaid—in other words, the decisions are integrally linked.¹⁴ Recently proposed federal regulations would require the state Medicaid agency to treat an appeal of tax credit eligibility in the marketplace also as an appeal of Medicaid eligibility.¹⁵ This is important because if the dispute is over an applicant's income, the outcome of the appeal could result in the applicant being eligible for either Medicaid or tax credits in the marketplace. For example, if an applicant named Joan attests to an income of 100% of the federal poverty level (Medicaid eligible) but the system's data-verified income for Joan is 150% FPL (tax credit eligible through the marketplace), then the outcome of an appeal could send Joan to either system.

Application of *Goldberg v. Kelly* due process standards

Marketplace eligibility appeals must adhere to the same standards set forth for conducting Medicaid fair hearings.¹⁶ These standards have become known as the *Goldberg v. Kelly* standards, based on the landmark 1970 U.S. Supreme Court decision holding that states must afford public assistance beneficiaries a pre-termination evidentiary hearing before discontinuing their benefits.¹⁷

Before *Goldberg*, courts recognized a procedural due process distinction between “rights” (government regulation of private property) and “privileges” (government disbursement of benefits).¹⁷ The Court in *Goldberg* abandoned this distinction and instead concluded the extent to which procedural due process is required “depends upon whether the recipient's interest in avoiding that loss outweighs the governmental interest in summary adjudication.”¹⁹ Moreover, the Court focused on the fact that termination of public assistance “pending resolution of a controversy over eligibility may deprive an eligible recipient of the very means by which to live while he waits.”²⁰ Consequently, procedural due process in the context of public assistance has the highest level of constitutional protection.

The federal government clarified in January 2013 that *Goldberg* standards apply to marketplace eligibility determinations.²¹ These standards include:

- Right to a pre-termination evidentiary hearing.
- Right to timely and adequate notice detailing the reasons for action.
- Right to an effective opportunity

to defend by confronting adverse witnesses.

- Right to present arguments and evidence orally before the adjudicator.
- Right to retain legal representation.
- Requirement that adjudicator explain the basis of her/his determination and indicate the evidence relied on.
- Requirement that adjudicator must be impartial – shall not have participated in initial determination.

Colorado Developments

At the time of writing this article, it remains an open question whether Connect for Health Colorado will establish its own state-based eligibility appeals process or delegate the process to the federal government. If Connect for Health Colorado opts to develop its own state-based appeals process, it would have the option to either develop an in-house appeals structure or delegate appeals authority to the Colorado Office of Administrative Courts (OAC). The OAC currently handles Colorado Medicaid appeals and is equipped to meet the rigorous

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LAWYER MENTORING: THE WHAT, WHY AND HOW

BY ROBIN N. AMADEI

Introduction

Are you a seasoned attorney with a desire to make a positive impact on a newer attorney or on the profession? Are you a newer attorney that would benefit from support, guidance, and advice from a seasoned attorney? If so, mentoring might be the perfect avenue for you to explore. In this article we will discuss the what, why and how of a mentoring relationship, including what mentoring is; why mentoring benefits the mentor, the mentee and the profession; how to become a mentor; a structure for mentoring meetings; and three major tools in the mentor toolbox.

The What

Mentoring is defined as a relationship where one person helps to guide another person to attain personal and professional goals. The concept of mentoring is ancient, literally. In Homer's *The Odyssey*, Mentor is the guide for Odysseus's son, Telemachus. Since that illustrious beginning, mentoring has played a role in helping others to succeed either professionally or personally. Mentoring can be a vital tool to help newer lawyers to develop their careers, as well as contribute more generally to the excellence, professionalism and collegiality of the profession.¹

The Why

The benefits of mentoring to the newer attorney can include: the opportunity to: develop new skills, insights, strategies, and confidence;² receive guidance through potential professional minefields; and obtain a broader, richer perspective on the practice of law. And, lest the mentor think "what's in it for me?" there are also numerous benefits to the mentor. Benefits to mentoring newer attorneys within one's firm include: attracting and retaining the best associates, boosting productivity and hence profitability, deepening relationships in the firm, developing others to free up one's own time, and serving clients more effectively. More general benefits to the mentor, whether or not the mentee works in the same firm include: refining and developing one's own skills, acquiring a renewed sense of purpose, enhanced credibility and creativity, and obtaining a broadened perspective.³ Also, newer lawyers can expand the knowledge base of their mentors in areas including: using technology and social networks, implementing new and improved approaches to classic problems, and creating work-life balance.

The How

Step one is to establish the mentor/mentee relationship. If the firm is made up of senior attorneys and

newer ones, the firm might consider creating a formal mentoring program or actively supporting informal mentoring relationships. The Colorado Bar Association's Colorado Attorney Mentoring Program is setting up a website to support attorney mentoring in Colorado. The Program has produced useful materials including Rules and Policies of the Mentoring Program and Mentor/Mentee Agreements, which can be obtained through the Boulder County Bar Association (BCBA) Office. In the event that a given firm does not provide ready-made mentor/mentee pair opportunities, interested attorneys may wish to apply to be mentors or mentees through the BCBA's 'Raising the Bar' mentoring program, http://www.boulderbar.org/mentee_mentor.htm. The BCBA will match mentors and mentees by practice area or interest. Once matched, the mentor and mentee can define their own relationship, using resources that they can access through the BCBA office.

Once a mentor/mentee relationship is formed, the next step is to have the first meeting. Although it would be ideal to meet in person, it is possible to mentor over the telephone. The first meeting is a time for the mentor and mentee to get to know one another; establish norms for the mentor/mentee relationship; determine the mentee's goals, objectives and values; and begin to work on a substantive topic together if there is time to do so. Subsequent meeting agendas will vary depending on the purpose of the mentoring relationship and the needs of the mentee. Mentoring pairs can draw upon templates prepared by the Colorado Attorney Mentoring Program, which can be obtained through the BCBA

(continued on page 8)

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PRESIDENT'S PAGE

BY JUDSON HITE



the law, in part because it is constantly changing. (Solicitation warning: This fall, many of our Bar sections will offer CLE presentations addressing updates in substantive law, from legalized pot to standardized spousal maintenance. Please pick several and attend.) Some change in the law may appear prescient for its need and sensibility. Other might be suspect, possibly politically paid for. Generally, however - with the recognized exception of Weld County - the legitimacy of statutory change is well respected.

As attorneys, we seek to identify and define the rule of law to advise and advocate for our clients. Judges in our rank do so to render justice. We are typically conservative in that resolve, relying on common meaning and stare decisis. But our professionalism, the art, is to take the novelty of a client's fact pattern and argue for advancement of the law to encompass these novel facts. We try to expand the law. We move the law. We push the envelope. Or conversely, we argue our adversary's position bursts the bubble, overstuffs the envelope,

moves too far. We use judgment to counsel, and advocate for results.

If advocacy is an art, I often ponder why the terms "activist judge" or "conservative bench" are used derisively when applied to the jurist required to sample and rule upon our advocacy. It is advancement (or curtailment) of the law that our clients seek. Our ethical obligations drive us to compete for such results. The basis of labeling a judge activist or conservative is merely one-sided result dissatisfaction. The Annie Coulterites paint these labels with political hues, when the true color is pragmatism. It is not altruistic and not the kool-aid we should share.

Professionalism (next month's topic), seeps beyond rule-bound ethics, general civility and decorum. It is appreciation of the system in which we toil. The cutting edge is not black and white, but penumbra, where genius and creativity are tasked to find light.

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Change. I am enjoying the luxury and curse of experiencing much of it lately. Someone's alter ego once sang: You got to grow up and out of it. While others often appear comfortable with the familiar, I don't even take the same way home that I took to work.

Someone else posited that change is the only constant. I love ipse dixit. I also love

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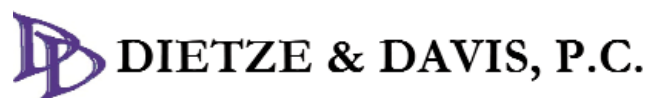
Congratulations to Christina Ebner who was honored at the Legal Services Corporation award banquet in Denver last month. She is a partner in the Longmont firm of Ebner & Gent. For over a decade she has accepted an average of nine cases per year, and in the past five years has donated more than 200 hours representing 44 pro bono clients in cases involving Social Security, Medicaid, Medicare and other issues.



Bridge to Justice is pleased to announce the launch of its new website:
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Bridge to Justice is a Colorado non-profit organization providing reduced-rate legal services in the areas of domestic relations, landlord-tenant, wills, bankruptcy, and consumer debt matters to low- and moderate-income individuals who do not qualify for free legal aid yet cannot afford a private attorney. Since opening its doors in April 2013, Bridge to Justice has served over 100 clients who otherwise would not be able to afford an attorney. Thank you for your continued support of Bridge to Justice. We now accept online donations. If you wish to make a donation, please note that as our application for tax-exempt status is pending, donations are not tax-deductible at this time.

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**Congratulations to Boulder
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LAWYER MENTORING *(continued from page 4)*

office, to help focus meetings and activities. Often, mentors and mentees meet once or twice a month for an hour or so. Sometimes, the relationship is less formal and the pair might meet for a meal, a hike, or whatever is comfortable for both parties.

Mentoring meetings might be structured as follows:

1. Welcome, check in
2. Goals for this meeting
3. Discussion
4. Recap and next steps
5. Schedule next meeting

Following a basic meeting structure such as the one described above will ensure that progress is made throughout the mentoring relationship.

A Few Tools and Techniques

Just like any other craft, the mentor draws on tools at his or her disposal to support the mentoring relationship. Here are a few must-haves in the mentor tool box:

1. Listening: The mentor's primary tool of the trade is listening. Deep listening requires the mentor to put away all distractions and place 100%

focus on the mentee. The mentor will want to listen carefully to the mentee's goals, values, needs and ideas so that the mentor can provide effective support, counsel and guidance. Instead of listening to the topic, forming an opinion and sharing it with the mentee, the mentor should listen, ask questions, and serve as a helpful guide. In a way, the mentor is like a travel agent, listening to what type of vacation the client enjoys, what he or she likes to do while there, what type of hotels the client likes, etc., and then proposing options, upon request. The travel agent does not substitute his or her likes and dislikes for those of the client, and definitely does not go on the trip! Similarly, the mentor does not substitute his or her career goals, values, definition of work-life balance, etc. for those of the mentee.

2. Asking questions: Good mentors ask lots of powerful questions. Although lawyers are trained to not ask a question they don't know the answer to, mentors often ask questions that mentees perhaps have not even considered before. Powerful questions are open, mostly start with 'what' and 'how', do not have disguised solutions embedded in them,

and get the mentee thinking. The mentor asks questions at every stage of a mentoring meeting, from goal-setting forward. Ideally, the mentor draws out the best thinking of the mentee and only offers advice upon request. This approach enables the mentee to buy into his or her course of action.

3. Providing feedback: One of the biggest gifts a mentor can provide to a mentee is feedback. We are often 'the last to know' both the things that we do that have a positive impact on others and the things that don't. The mentor is in a unique position to provide both positive and constructive feedback that supports the mentee's development. Briefly, here is a model that the mentor (and the mentee) can use to provide feedback. The first letters of each stage of the model spell the word CARE :⁴

A. Context- Information about the general situation in which the action did or did not occur

B. Action- The action that the mentee did or didn't do that had an impact worthy of feedback

C. Result- The impact that the action had (or could have had) on the mentee, the mentor, or others

D. Empathetic Exploration- What is the feedback recipient's perspective? What will he or she do in the future based upon this feedback? The mentor should consider word choice, timing, and setting to ensure the feedback is appropriately received and acted upon.

Conclusion

Mentoring can be a very rewarding activity for both the mentee and the mentor. Both parties to the relationship can enrich their careers and their personal lives through the experience of mentoring. The

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Goldberg due process standards. Handling marketplace appeals in the OAC could also provide an opportunity to combine the Medicaid and marketplace components of the appeal in front of one adjudicator and thereby avoid the threat of dueling hearings and potentially conflicting decisions.

The extension of *Goldberg* due process protections to the marketplace tax credits and cost-sharing subsidies makes sense. While it remains a question how exactly Connect for Health Colorado will structure its appeals process, it appears settled that the stakes are too high for low- and middle-income people and “the possibility for honest error or irritable misjudgment too great, to allow termination of aid without giving the recipient a chance, if he so desires, to be fully informed of the case against him so that he may contest its basis and produce evidence in rebuttal.”²²

George Lyford is an attorney at the Colorado Center on Law and Policy. CCLP advances the health, economic security and wellbeing of low-

income Coloradans through research, education, advocacy and litigation.

1. Patient Protection and Affordable Care Act (hereinafter ACA), Pub. L. No. 111-148, 124 Stat. 119 (2010).

2. More information regarding Connect for Health Colorado can be found on its website, at <http://www.connectforhealthco.com>.

3. Elizabeth Hagan, Kathleen Stoll, Kim Bailey, *Help is at hand: new health insurance tax credits in Colorado*, FAMILIES USA (2013), <http://familiesusa2.org/assets/pdfs/premium-tax-credits/Colorado.pdf>.

4. 45 CFR § 155.505(d); *See, Goldberg v. Kelly*, 397 U.S. 254 (1970).

5. ACA, Pub. L. No. 111-148, §1401, 124 Stat. 119, 213-20 (2010); ACA, Pub. L. No. 111-148, §1402, 124 Stat. 119, 220-23 (2010).

6. In 2013, 400 percent FPL is \$45,960 for an individual and \$94,200 for a family of four.

7. Colorado decided to accept the federal expansion of Medicaid under the ACA, which starting January 1, 2014 will allow all non-elderly persons with an annual income under 138 percent of the Federal Poverty Level to qualify for the program. Also starting January 1, 2014, sliding scale tax credits in the marketplaces will be available to individuals who are not eligible for Medicaid and have an annual income under 400 percent FPL. In 2013, 138 percent FPL is \$15,856 for an individual and \$32,499 for a family of four.

8. ACA, Pub. L. No. 111-148, §1413 (2010).

9. *See*, 45 CFR § 155.505(c).

10. *See*, 45 CFR § 155.505(b)(1)(i).

11. *See*, 45 CFR § 155.505(b)(1)(ii).

12. *See*, 45 CFR § 155.505(b)(3).

13. *See*, 45 CFR § 155.505(b)(2). Individuals may qualify for an exemption from the requirement to obtain health insurance coverage when one of several criteria are met, including financial hardship, religious objection and membership in a Native American tribe. *See*, ACA, Pub. L. No. 111-148 §1311(d)(4)(H)

14. ACA, Pub. L. No. 111-148, §1413 (2010).

15. Proposed Rules, § 431.221, FEDERAL REGISTER, Vol. 78, No. 14, Tuesday, January 22, 2013.

16. 45 CFR § 155.505(d), which requires compliance with Medicaid fair hearing rules at 42 CFR 431.10(c)(2).

17. *See, Goldberg v. Kelly*, 397 U.S. 254, 263 (1970).

18. Christine Cimini, *Welfare entitlements in the era of devolution*, 9 GEO. J. POVERTY LAW & POL'Y 89, 105 (2002).

19. *Goldberg v. Kelly*, 397 U.S. 254, 266

20. *Id.*, at 264.

21. 45 CFR § 155.505(d)

22. *Goldberg v. Kelly*, 397 U.S. 254, 266



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PRESIDENT'S PAGE *(continued from page 5)*

Embrace that role, don't offensively label a judge that doesn't agree with the brightness of your argument, and maybe share more coffee with your adversary and learn where, why and how she's set her beams.

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PRO BONO PAGE

Pro Bono Referrals

Twelve cases were referred during the month of July. Thank you to the following attorneys:

Norm Aaronson CULADP
Joyce Bergman
Deborah Cantrell CULADP
Christopher Jeffers
Angela Little
Roseann Murray
Anne Pignatiello
Jeff Skovron

Thank you to the following attorneys who accepted mentorships on a BCLs case in July:

Darryl James
Helen Stone

Pro Se Program Volunteers
Evan Branigan
John Hoelle
Michael Morphew
Bev Nelson
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Michelle Stoll

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The following attorneys accepted pro bono referrals for the Boulder County AIDS Project in July:

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| September 9 | Lee Strickler | 303.443.6690 |
| September 23 | Meghan Pound | 303.443.8010 |
| September 30 | Tom Rodriguez | 303.604.6030 |

The Boulder County Bar Foundation's grant applications are due September 16.

Please encourage those legally-related organizations in Boulder County in need of funding for special programs or events to complete a application on the bar's website www.boulder-bar.org

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LAWYER MENTORING *(continued from page 8)*

Boulder County Bar Association can help match mentor and mentee pairs and provide support for pairs during their mentor/mentee relationship. Visit their website at http://www.boulder-bar.org/mentee_mentor.htm; or call the BCBA at 303-440-4758.

Robin N. Amadei, J.D., Common Ground Mediation and Coaching, LLC has served as a mediator, facilitator, trainer and coach since 1990. She conducts training in the areas of coaching and mentoring, conflict coaching, mediation, conflict management, and negotiation.

Although I have been providing Executive and Personal Coaching in addition to Conflict Coaching for years, I am in the process of going through a formalized (and rigorous) coach certification program with Coaches Training Institute (CTI).


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1. Colorado Attorney Mentoring Program (CAMP) Rules & Policies Pursuant to Rule 255 Colorado Rules of Civil Procedure June 1, 2013
2. Abbott, Ida O., *The Lawyer's Guide to Mentoring* (New York, NY: National Association for Law Placement, Inc., 2000)
3. Ambrose, Larry, *Common Sense Mentoring*, Dearfield, IL; Perrone-Ambrose Associates Inc., 2009)
4. Developed by Dr. Steven Frieman, Office of Personnel Management, 2006.

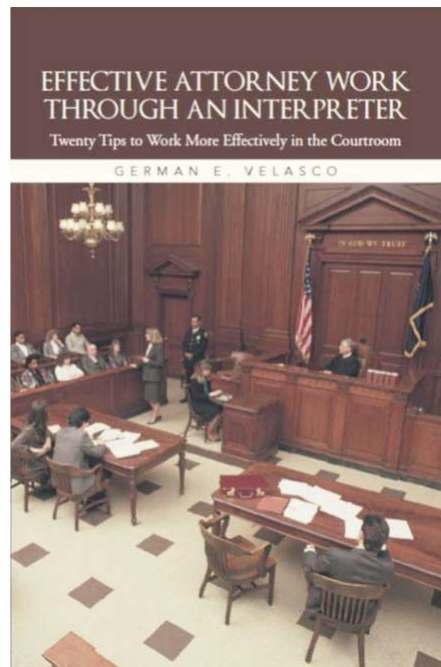
The approach and idea of this book are fabulous.

This is vital information for all attorneys working with interpreters, and is a need that has not yet been filled in our state.

Emy Lopez, Head of the Office of Language Access, Colorado Judicial Department

Find it in 

Paperback or Kindle version



EARL CLARK HANCOCK 1930 - 2013

Earl Clark Hancock's family long ago declared him to be one of the world's truly good men. His integrity, kindness, and humor often seemed to inspire others to their higher nature.

Earl died at home in Boulder, Colorado on July 10, 2013. Born to Wheeler and Rebecca Helm Hancock, March 14, 1930, in Baltimore, Maryland, he had three brothers: Frank, Ray, and Carl. His growing-up years were spent in Baltimore, where he graduated from Forest Park High School.

From boyhood, his actions and choices showed that he loved life and respected and cared for the people around him. His life path led Earl into a successful patent law career, a 56 year marriage, and a commitment to quietly doing whatever he could to encourage others on their own paths.

His character was influenced by hard-working and honest parents, the effects of the Great Depression on his family, his Methodist heritage, years of Boy Scout involvement up to Life Scout, his boyhood job delivering newspapers, loyal and competitive brothers, good friends who could be counted on, and tremendous admiration for his brother Frank who served in the Infantry in France during World War II. During 33 months of active duty, he went to radar school and became a radar repairman for the U.S. Army and a Missile Guidance Technician for the Air Force. In 1955, thanks to the GI Bill, he enrolled at Virginia Polytechnic Institute to study electrical engineering.

Earl set high goals for himself in all areas of life. He could be competitive but was scrupulously honest and actively worked to give others opportunities to experience success. He went on to finish his B.S. in Electrical Engineering in 1958 at Virginia Polytechnic Institute, having served on the Civilian Honor Court and becoming Chief Justice in his senior year. As a young father, he worked as a patent engineer for The Martin Company days and attended law school at night, receiving his Juris

Doctorate cum laude in 1963 at the University of Denver. At VPI he was honored with membership in three national honorary societies: Eta Kappa Nu, for electrical engineering; Tau Beta Pi, for engineering; and Omicron Delta Kappa, for leadership and academic achievement. At DU Law School, he received the Order of St. Ives.

The years 1974-76 were spent in private practice with Denver attorney Jack Reilly. In 1987, he fulfilled a lifetime dream when he opened his own patent law office that became Hancock and Knearl. In 1994 the entire group joined Holland and Hart's new Boulder law office. Earl retired in 2002.


As a member of the Bar Associations in Colorado, Florida and New York, Earl always enjoyed serving on patent-related committees and interacting with other lawyers. He was active with the Boulder County Bar Association for many years and became a member of the Boulder County Bar Foundation. In later years, mentoring younger patent lawyers was especially satisfying to him. This role was consistent with his belief that a leader's role was to help others achieve their own goals and dreams.

After retirement, Earl began to develop what turned out to be a progressive neurological disorder eventually diagnosed as progressive supranuclear palsy (PSP). His final journey became a courageous effort to overcome...then learn to live with the symptoms he was experiencing. He never lost his sense of humor, his love of people, or his appreciation for those who came to be part of the effort to help him find pleasure and comfort through those years.

Earl's family is thankful for the blessings brought into their lives through the loving care of all those who helped maintain Earl's quality of life to the end: friends, volunteers, caregivers, the Carelink Program, Heartland Hospice and Boulder County Hospice.

Those who cared about Earl are invited to join his family in celebrating Earl's life and enduring impact on **September 15, 10 am, at the Spice of Life Event Center, 5706 Arapahoe Ave., Boulder** (at the Flatirons Golf Course). A donation of time or money to a service-related organization or cause you believe in seems like an appropriate way to remember Earl in lieu of flowers.

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Published in The Boulder Daily Camera on August 4, 2013.



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Robinson Tweedy is seeking a litigation paralegal with at least 4 years' experience in complex commercial litigation. Experience in construction or real property matters a plus. Position requires excellent PC & document organization skills. Working knowledge of all Microsoft products and familiarity with docketing and calendaring required. Ideal candidate will have strong organizational ability, excellent written and oral communication skills, and a solid legal research background. Must possess a team player attitude, be detail oriented and enjoy a challenge. Please send resume AND salary requirements. Salary - commensurate with experience

Downtown Boulder office suite for rent (sublease) as of August 15. Reception area, conference room, four offices, copy/supply room and kitchenette. Onsite storage. Prime location at 14th & Walnut. \$3200/month incl. NNN for ~1750 SF. Some furniture available. Access to city parking garage and RTD EcoPasses also available. eperreault@jbc-law.com

Mobile Notary and Contract Paralegal Services. Civil Litigation. ADC/CJA. Real estate transaction. Roz Lynn Dorf, M.A. 303.494.6935.

Filing Cabinet, four drawer, four foot wide, HON Model 794 LP for sale. Set up for hanging files. These are more than \$600 new, yours for \$300. Call Jeff 303-442-2599.

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PROFESSIONALISM & LEGAL INCLUSIVENESS

The Chief Justice's Commissions on the Legal Profession has chosen Diversity & Inclusiveness to be the 2013 theme for October Professionalism month. Below are is general information about the Center for Legal Inclusiveness.

Center for Legal Inclusiveness's Mission

CLI is dedicated to advancing diversity in the legal profession by actively educating and supporting private and public sector legal organizations in their own individual campaigns to create cultures of inclusion. www.legalinclusiveness.org

What is Inclusiveness in the Legal Workplace?

Inclusiveness is about an inviting environment for talent from all backgrounds as well as the equal opportunity for each person to succeed in a way that works for them. Inclusiveness makes room, not for different people to take a shot at the same definition of success, but for different people to actually create different definitions of success. - Dr. Arin Reeves, Nextions LLC

Inclusiveness vs. Diversity: What's the Difference?

Many people use the terms "diversity" and "inclusiveness" interchangeably but they have very different

meanings. Diversity efforts in the legal profession have been focused primarily on recruiting whereas inclusiveness focuses on the cultural, structural, and behavioral aspects of an organization and the retention of diverse attorneys.

Diversity describes "compositional diversity" - the extent to which a legal organization has people from diverse backgrounds and communities working as attorneys and staff. Primary dimensions of diversity include race, ethnicity, gender, age, religion, disability, sexual orientation and gender expression. Secondary dimensions of diversity can include lifestyle, communication style, personality type, learning style, economic status, geographic origin, education status, generation, avocation, work experience, world travel experience, political views, philosophical views, parental status, appearance, veteran status, and nationality, among others.

Inclusive organizations value the perspectives and contributions of all people, and strive to incorporate the needs and viewpoints of diverse communities into all aspects of the organization. Inclusion is the active, intentional, and ongoing engagement with diversity in the organization. Inclusiveness employs a broad definition of diversity that includes all dimensions of diversity, and

specifically those in the majority in legal organizations - white, heterosexual men.

Chasing diversity statistics will not create an inclusive culture that yields sustainable diversity. Although the legal profession has worked very hard in recent years to open its long-closed doors to diverse attorneys, the profession's limited focus on diversity without consideration for inclusion has changed the open doors into revolving doors. - Kathleen Nalty, CLI Executive Director

Inclusiveness = the Next Frontier for Diversity

CLI's innovative six-step inclusiveness manual and program gives individuals and organizations the tools they need to move from traditional diversity efforts to the new paradigm of inclusiveness. Learn more about inclusiveness in the free preview of CLI's Inclusiveness Manual and become a subscriber here.

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